



The Commonwealth of Massachusetts

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

October 29, 2004

D.T.E. 04-88

Investigation by the Department of Telecommunications and Energy on its own motion as to the propriety of the rates and charges set forth in the following tariffs: Boston Gas Company, M.D.T.E. Nos. 101.1 through 112.1, filed on September 16, 2004, to become effective November 1, 2004.

APPEARANCES: Thomas O'Neill, Esq.
Keyspan Energy Delivery
52 Second Avenue
Waltham, Massachusetts 02451
FOR: BOSTON GAS COMPANY, d/b/a
KEYSPAN ENERGY DELIVERY NEW ENGLAND
Petitioner

Thomas F. Reilly,
Attorney General of the Commonwealth of Massachusetts
By: Alexander J. Cochis, Esq.
Assistant Attorney General
Utilities Division
One Ashburton Place, Room 1813
Boston, Massachusetts 02108-2406
Commenter

I. INTRODUCTION

On September 16, 2004, Boston Gas Company d/b/a Keyspan Energy Delivery New England (“Boston Gas” or “Company”), pursuant to Boston Gas Company, D.T.E. 03-40 (2003), filed with the Department of Telecommunications and Energy (“Department”) the Company’s first annual compliance filing (“Compliance Filing”) under performance based regulation, proposing to revise tariffs M.D.T.E. Nos. 101.1 through 112.1. The Company proposes to increase its total annual base distribution revenues by \$4.57 million or 1.47 percent, based on the price cap formula adopted in D.T.E. 03-40 (Compliance Filing, Attachment 2, at 2). This matter was docketed as D.T.E. 04-88.

Pursuant to notice duly issued, the Department sought comments on the Company’s Compliance Filing. On October 15, 2004, the Attorney General of the Commonwealth of Massachusetts filed comments (“Attorney General Comments”). On October 20, 2004, the Company filed reply comments (“Company Reply Comments”). The Company responded to ten Department information requests.¹

II. COMPANY’S COMPLIANCE FILING

Boston Gas’ price cap formula provides for an annual adjustment to the Company’s rates by taking the previous year’s normalized base revenues (after service quality penalty adjustments)² and increasing that number by a factor comprised of an inflation index, minus a

¹ The Department, on its own motion, moves the Company’s responses to information requests DTE 1-1 through DTE 1-10, into the evidentiary record in this case.

² Boston Gas incurred no service quality penalties in 2003. See Boston Gas Company, D.T.E. 04-16 (2004).

productivity growth offset, plus an exogenous cost factor (when applicable). D.T.E. 03-40, at 471-497. The inflation index is calculated as the percentage change between the average of the current year's and prior year's four quarterly measures of the Gross Domestic Product chain weighted Price Index ("GDP-PI") as of the second quarter of the year. Id. at 473.

The Company's normalized base revenues for 2003 were \$311,146,915 (Compliance Filing at Attachment 2).³ The Company proposes to increase its normalized base revenues by 1.47 percent (id.). To reach this factor, the Company calculates an inflation index of 1.88 percent (id.). The Company then subtracts the 0.41 percent productivity growth offset, which has been approved by the Department and will remain constant throughout the life of the price cap plan. Applying a factor of 1.47 percent to the Company's 2003 normalized base revenues of \$311,146,915 results in a proposed revenue increase of \$4,573,860 (id. at Attachment 2, at 1; Exh. D.T.E. 1-4).

The Company did not propose an earnings sharing adjustment because its 2003 year-end actual return on equity of 8.1 percent falls within the 400 basis points bandwidth around the Company's authorized return on common equity where earnings sharing does not occur (6.2 percent to 14.2 percent) (id. at Attachment 2, at 4; see D.T.E. 03-40, at 498, 502). The Company also did not propose any exogenous cost adjustments (id. at Attachment 2, at 3). Finally, the Company proposes to design the charges for each rate class by increasing the

³ The Company adjusted its 2003 test year actual revenues for billing day adjustment and for the effect of a colder-than-normal weather during the test year (Compliance Filing at Attachments 1 and 4; Exhs. DTE 1-5, DTE 1-7).

monthly customer charge up to the rate of inflation and recovering the remaining class revenue requirement from the other component charges (id. at Attachment 3).

III. SUMMARY OF COMMENTS

A. Attorney General

The Attorney General states that the Company's PBR filing raises several issues that require further investigation (Attorney General Comments at 1). In general, the Attorney General argues that the filing should be subjected to a thorough review because it represents the first adjustment under a new approved PBR formula and increases rates under G.L. c. 164, § 94 (id. at 1). Specifically, the Attorney General contends that the Department should investigate the pension adjustment calculations contained in the filing because in D.T.E. 03-40 the Department directed the Company to commence reconciling its pension adjustment in conjunction with its PBR filing and flow the impact of any changes through its local distribution adjustment clause ("LDAC") (id., citing D.T.E. 03-40, at 313-314; Berkshire Gas Company, D.T.E. 04-52 (2004)).

Finally, the Attorney General asserts that, as a prudent business practice, the Company should submit with its annual PBR filing a report on its evaluation of potential exogenous factors (id. at 2, citing D.T.E. 03-40, at 507-508). For example, the Attorney General notes that the Company has not included any information in its Compliance Filing about changes to Financial Accounting Standard 106 ("FAS 106") pursuant to the Medicare Act of 2003 that may result in an exogenous credit to ratepayers (id. at 1-2).

B. Boston Gas

With respect to the Attorney General's arguments regarding the need to investigate in the instant docket the Company's pension adjustment calculations that flow through the LDAC, the Company claims that, pursuant to D.T.E. 03-40, all pension and post-retirement benefits other than pensions ("PBOP") are recovered outside of base rates (Company Reply Comments at 2, citing D.T.E. 03-40, at 313-314). The Company argues that, because its annual PBR Compliance Filing adjusts base rates using a pre-established price-cap formula, an investigation of the pension adjustment should not occur with the Compliance Filing (id. at 2, 3). The Company notes that it has provided documentation supporting its calculation of the pension/PBOP adjustments in its current LDAC filing (id. at 3).

With respect to exogenous costs, Boston Gas states that, as part of its preparation of the Compliance Filing, it reviewed whether any legislative, regulatory or judicial changes had occurred that would result in an exogenous cost adjustment based on the standard established by the Department in D.T.E. 03-40 (id. at 3, citing D.T.E. 03-40, at 490). Based on this review, the Company determined that no events had occurred to warrant an exogenous cost adjustment (id. at 3).

Regarding the Attorney General's specific reference to FAS 106 expense reductions under the Medicare Act of 2003, the Company claims that this is a PBOP expense item that is accounted for outside of base rates and, therefore, not appropriate for consideration in the Compliance Filing (id. at 4). Further, the Company contends that the Medicare Act of 2003 became effective in 2004. As of September 2004, Boston Gas had recorded a PBOP expense

reduction of \$1,082,065 (id.). However, because Boston Gas' current LDAC includes pension and PBOP deferrals for 2003, the FAS 106 expense reduction is not included. Instead, the Company states that the FAS 106 expense reduction will be reconciled in the Company's 2005 LDAC filing (id.).

IV. ANALYSIS AND FINDINGS

Boston Gas is required to submit with its annual PBR filing: (1) documentation of its normal billing determinants and revenues to determine the weighted average price to which the price cap will be applied; (2) a calculation of the new price cap, including documentation of the exogenous factors and capital cost changes; (3) a development of new rates consistent with the annual price-cap calculation; and (4) class-by-class bill impacts, including gas costs, comparing the proposed rates to the then-current rates. D.T.E. 03-40, at 507-508. After review, the Department finds that the Company's Compliance Filing is consistent with D.T.E. 03-40 and other applicable Department precedent. See Boston Gas Company, D.P.U. 96-50 (Phase I) at 36-40 (1996); Boston Gas Company, D.P.U. 93-60, at 74-80 (1993). In addition, we find that the Company's method of designing rates, which adjusts the monthly customer charge up to the rate of inflation and recovers the remaining revenue requirement from the other component charges, is consistent with the pricing and rate design flexibility approved in D.T.E. 03-40, at 503-504. Accordingly, the Department approves the Company's Compliance Filing.

Regarding pension and PBOP adjustments, the Department notes that these expense items are fully reconciling costs that are recovered through the Company's LDAC.⁴ Unlike the Company's PBR filing which adjusts base distribution rates, pension adjustments, including any FAS 106 expense reductions under the Medicare Act of 2003, are not base rate items. Calculation of the pension adjustment will be considered in a separate proceeding where the Attorney General and other interested parties will have the opportunity to participate.

Finally, as part of the Company's preparation of its Compliance Filing, Boston Gas considered whether any legislative, regulatory or judicial changes had occurred that would result in an exogenous cost adjustment based on the standard established by the Department in D.T.E. 03-40 (Company Reply Comments at 3). In order to expedite future review, the Department directs the Company to submit with its annual PBR compliance filing its evaluation of potential exogenous factors (both costs and credits).

⁴ In its comments, the Company notes that all pension PBOP expenses are recovered outside of base rates (Company Reply Comments at 2, citing D.T.E. 03-40, at 313-314). However, pension expense included in a company's base rates is reconciled in the LDAC with actuarially determined pension expense. The difference is amortized over a three-year period, with carrying charges on the unamortized balance. See D.T.E. 03-40, at 313.

V. ORDER

Accordingly, after due notice and consideration, it is

ORDERED: That the tariffs M.D.T.E. Nos. 101.1 through 112.1, filed by Boston Gas Company on September 16, 2004, to become effective November 1, 2004, are ALLOWED and it is

FURTHER ORDERED: That Boston Gas Company shall comply with all other directives contained in this Order.

By Order of the Department,

/s/

Paul G. Afonso, Chairman

/s/

W. Robert Keating, Commissioner

/s/

Eugene J. Sullivan, Jr., Commissioner

/s/

Deirdre K. Manning, Commissioner

Appeal as to matters of law from any final decision, order or ruling of the Commission may be taken to the Supreme Judicial Court by an aggrieved party in interest by the filing of a written petition praying that the Order of the Commission be modified or set aside in whole or in part.

Such petition for appeal shall be filed with the Secretary of the Commission within 20 days after the date of service of the decision, order or ruling of the Commission, or within such further time as the Commission may allow upon request filed prior to the expiration of twenty days after the date of service of said decision, order or ruling. Within ten days after such petition has been filed, the appealing party shall enter the appeal in the Supreme Judicial Court sitting in Suffolk County by filing a copy thereof with the Clerk of said Court. Sec. 5, Chapter 25, G.L. Ter. Ed., as most recently amended by Chapter 485 of the Acts of 1971.